IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

C.A. NO.4215 OF 2007
IN
FIRST APPEAL NO.1155 OF 2007

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Mr.A.M.Kulkarni for the appellant.

Mr.K.K.Jadhav for respondent no.1.

CORAM : ANOOP V. MOHTA,J.

DATED : 29th August, 2007

P.C.

Considering the fact that the appeal is preferred by original defendant no.2, though it is a money decree, yet I am of the view that at this stage of the proceeding, till the final decision of the first appeal in question, the original plaintiff-applicant (respondent no.1) is entitled to withdraw the 50% of the decretal amount as the decree is jointly and severally against original defendants 1 and 2.

As rightly contended by the

learned counsel for the appellant that it should be allowed subject to furnishing Bank Guarantee.

Taking all this into account, the applicant is permitted to withdraw the 50% of the decretal amount by furnishing Bank Guarantee to the Registry of this Court as the amount has been deposited in this Court.

So far as the balance 50% of the decretal amount which is lying in this Court, the same should be invested in any Nationalised Bank initially for three years and renewable from time to time till the decision of the first appeal.

C.A. is allowed accordingly.

[ANOOP V. MOHTA,J.]